

Message Text

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SUBJECT: INSURANCE AND REINSURANCE ARGENTINA

REF: (A) BUENOS AIRES 0624

(B) STATE A-6374

(C) BUENOS AIRES 8891

1. SUMMARY: FOREIGN AND OTHER INSURANCE COMPANIES CURRENTLY SEEKING CLARIFICATION OF STATUS UNDER NEW INVESTMENT LAW AND REGULATORY DECREE. CLASSIFICATION OF COMPANIES AS "FOREIGN" OR "NATIONAL" ESPECIALLY IMPORTANT FOR INSURANCE INDUSTRY WHERE SIGNIFICANT ELEMENTS DISCRIMINATION BETWEEN THESE TWO CATEGORIES STILL EXIST. END SUMMARY.

2. UNDER CURRENT INSURANCE REGULATIONS, SEVERAL SOURCES DISCRIMINATION EXIST AGAINST FOREIGN FIRMS. FOREIGN FIRMS ARE NOW REQUIRED TO REINSURE 60 PERCENT OF ALL POLICIES WITH NATIONAL INSTITUTE FOR REINSURANCE, COMPARED WITH ONLY 30 PERCENT FOR NATIONAL COMPANIES. BASIC INSURANCE LAW OF 1948 STIPULATES THAT MARINE IMPORT INSURANCE MAY ONLY BE WRITTEN BY NATIONAL COMPANIES. SAME LAW ALSO PROVIDES THAT ANY COMPANY RECEIVING TAX CONCESSION FROM ARGENTINE GOVERNMENT MUST INSURE WITH NATIONAL COMPANY.

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3. PREVIOUSLY, THESE SOURCES DISCRIMINATION NOT CONSIDERED

TOO SERIOUS SINCE REGULATIONS FOR FORMING NATIONAL COMPANY FLEXIBLE. IN FACT, ANY COMPANY CONSTITUTED IN ARGENTINA CONSIDERED NATIONAL. HOWEVER, RECENT INSURANCE CIRCULAR STIPULATES FOREIGN INVESTMENT LAW WITH TOUGHER PROVISIONS FOR QUALIFICATION AS NATIONAL COMPANY, TO COVER INSURANCE COMPANIES AS WELL. REPORTEDLY, INSURANCE SUPERINTENDENT INTERPRETS LAW TO MEAN THAT NATIONAL COMPANIES LIMITED TO THOSE IN WHICH NATIONAL INVESTORS HAVE SHARE IN EXCESS OF 80 PERCENT OF CAPITAL INVESTMENT. HOWEVER, ANOTHER INTERPRETATION IS THAT ARTICLE I-C OF REGULATORY DECREE SPECIFICALLY DEFINES "FOREIGN" COMPANY AS ONE IN WHICH NATIONAL CAPITAL LOWER THAN 51 PER CENT, OR IN WHICH NATIONAL CAPITAL BETWEEN 51-80 PERCENT BUT DECISION-MAKING POWER IN FOREIGN HANDS. BY IMPLICATION OTHER COMPANIES, I.E., WHERE NATIONAL CAPITAL 51-80 PERCENT BUT DECISION-MAKING POWER HELD LOCALLY, MUST BE NATIONAL. MAJOR SOURCE OF AMBIGUITY IS THAT INSURANCE LAWS ONLY PROVIDE FOR CLASSIFICATION AS "FOREIGN" OR "NATIONAL" COMPANY, WHEREAS INVESTMENT LAW ALSO CONTAINS CATEGORY OF MIXED COMPANY.

4. NEW FEDERAL TAX MEASURES MENTIONED PARA 5 BA-0624 SANCTIONED FEBRUARY 11. UNDER THIS LAW, ALL STOCK COMPANIES WILL HAVE TO RECALL ALL BEARER SHARES AND REPLACE THEM WITH NOMINATIVE SHARES. CURRENTLY, COMPANY SHARES ARE MOSTLY BEARER SO THAT IDENTIFICATION OF COMPANY OWNERSHIP QUITE DIFFICULT. UNDER NEW LAW, IDENTIFICATION AND DISTRIBUTION OF OWNERSHIP WILL BE MORE CLEARLY REVEALED WHICH MAY CAUSE PROBLEM FOR SOME FOREIGN COMPANIES.

5. BA-0624 ALSO REPORTED NEW INSURANCE REGULATION REQUIRING PRIVATE SECTOR INSURANCE FIRMS TO INVEST LEGAL RESERVES IN CERTAIN MANDATORY CATEGORIES. REGULATION 11385 OF JANUARY 22, 1974 STIPULATES THAT INSURANCE COMPANIES IN PRIVATE SECTOR WILL INVEST LEGAL RESERVES AS FOLLOWS: 50 PERCENT IN GOVERNMENT BONDS AND SECURITIES, 35 PERCENT IN REAL ESTATE AND MORTGAGE AND 15 PERCENT FREE.
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